

REMARKS

Entry of the foregoing, re-examination and reconsideration of the subject matter identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112, and in light of the remarks which follow, are respectfully solicited.

Claims 3 and 9 have been canceled without prejudice or disclaimer. Claims 1, 2, 4, 5, 7, 8, 10 and 11 are currently pending in this application. Claims 4, 5, 10 and 11 stand withdrawn from consideration on the merits.

Turning to the Office Action, claims 1, 2, 7 and 8 were rejected under 35 U.S.C. §102(b) as anticipated by or, alternatively, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,278,272 to Lai et al. for the reasons provided in paragraph (2) of the Office Action. Reconsideration of this rejection is requested for at least the reasons which follow.

Lai et al. '272 discloses a density range of about 0.85 to about 0.97 (column 3, lines 6-7). The preferred and especially preferred density ranges disclosed (column 4, lines 57-58) are well outside the ranges in the present claims. In those claims of the patent which specify a density (28, 29, 31, 32, 34, 35), the ranges also are well outside the ranges of the present claims. The 0.85-0.97 range encompasses low density, medium density and high density polyolefins. The melt flow ratio, I_{10}/I_2 , disclosed in the reference ranges from about 7 to about 20 (column 3, lines 10-11). Suitable olefin polymers are listed in column 3, lines 24-55 and this list literally encompasses hundreds of specific homopolymers and copolymers. It is abundantly clear that this document does not teach or suggest the specific ethylene polymers claimed in present claims 1 and 2.

Indeed, the polymers disclosed in Examples 1 to 4 of Lai et al. '292 do not satisfy the claimed density (0.930 – 0.970) and MFR_{10}/MFR_2 (16.2-50) of claim 1, nor the density (0.921-0.930) and MFR_{10}/MFR_2 (12-50) of claim 2. If those of ordinary skill in the art did not have the present claims before them, it is difficult to see how one could “immediately envision” the claimed ethylene polymers from the entire disclosure of the reference, bearing in mind the preferred embodiments of the reference. “The relevant portions of a reference include not only those teachings which would suggest particular aspects of an invention to one having ordinary skill in the art, but also teachings which would lead such a person away from the claimed invention.” See *In re Lunsford*, 53 CCPA 986, 357 F.2d 380, 148 U.S.P.Q. 716 (1965).

In addition, Lai et al. '272 is concerned with elastic polymers. Elastic polymers are usually low density (because of higher comonomer content). Accordingly, those of ordinary skill would not be motivated to increase the density of the polymers disclosed in this document since higher density polymers (i.e. low comonomer content) are usually low in elasticity.

For at least the aforementioned reasons, the §§102/103 rejections over Lai et al. '272 should be reconsidered and withdrawn. Such action is earnestly requested.

Claim 3 was rejected under 35 U.S.C. §102(e) as anticipated by or, alternatively, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,300,433 to Rodriguez et al. for reasons given in paragraph (3) of the Office Action. Claim 3 also was rejected under 35 U.S.C. §102(b) as anticipated by or, alternatively, under 35 U.S.C. §103(a) as obvious over EP 612 768 to Hasegawa et al. for the reasons given in paragraph (5) of the Office Action.

Without conceding the propriety of those rejections, claim 3 has been canceled without prejudice or disclaimer solely to expedite prosecution. Accordingly, these rejections are now moot.

Claim 9 was rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,300,433 to Rodriquez et al. for reasons given in paragraph (4) of the Office Action. Without conceding the propriety of this rejection and solely to expedite prosecution, claim 9 has been canceled without prejudice or disclaimer. As such, this rejection is moot.

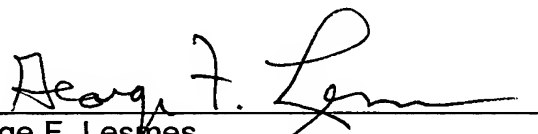
From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly requested. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (703) 838-6683 at his earliest convenience.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: January 11, 2005

By:


George F. Lesmes
Registration No. 19,995

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620